



Planning & Community  
Development

# Financial Guarantee Information

## 1. Why does the City require financial guarantees?

Applicants are required by state statute and the Shoreline Municipal Code (“SMC”) to post financial guarantees (surety bonds, cash, or assignment of funds) along with a signed performance agreement and/or maintenance/defect/monitoring agreement to ensure the timely and proper completion and maintenance of projects/site improvements. Financial guarantees are also used to warranty materials, workmanship of improvements and design. The guarantees are required for such projects or project components as: commercial or residential permits, subdivision (plat) improvements, landscaping, clearing, grading, restoration; utility connections, storm drainage improvements, and right-of-way work. The SMC requires a financial guarantee as a condition to be met at various stages of the permit process, for example, before permit approval or before issuance of a certificate of occupancy.

Note: Although the term “financial guarantee” is often used interchangeably with “bonds”, financial guarantees include not only surety bonds, but also assignment of funds and cash. (See #4 below for more detailed information.)

## 2. Which agreements require financial guarantees?

**Performance Agreements:** Ensures permit compliance including construction and installation of required improvements. Performance Agreements require the improvements occur within specified timeframes: one year after recording for final subdivision, one year after recording for short subdivision, one year after Right-of-Way permit issuance, and prior to the expiration of a temporary occupancy certificate issued for a building permit. The time limit for performance guarantee compliance may be extended by six months at the Director’s discretion if circumstances beyond the control of the applicant warrant an extension. An applicant’s request for an extension must be in writing and accompanied by a proposed schedule for completion of the remaining work.

The Performance Agreements are required for constructing improvements pursuant to any permits or approvals granted for the following:

- Clearing and grading SMC 20.50.330
- Subdivision improvements SMC 20.40.440; 20.60.110; 20.60.030; and 20.60.040
- Temporary certificates of occupancy for commercial building permits
- Right-of-way permits SMC 12.15.040
- Restoration and/or mitigation plans SMC 20.50.360;
- Landscaping for subdivisions and commercial building permits SMC 20.50.520
- Critical areas mitigation plans

### Maintenance/Defect/Monitoring Agreements

The City requires all applicants to post a maintenance/defect/monitoring guarantee warranting the successful operation and maintenance of certain improvements, and guaranteeing the workmanship, materials, and design used in construction of improvements required by the

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conditions of any permits or approvals issued and ensuring compliance with the Shoreline Municipal Code.

Unless otherwise indicated in the Shoreline Municipal Code, all maintenance/defect/monitoring agreements shall guarantee successful operation, workmanship, materials, and design of required facilities for a period of two years following final inspection and approval of improvements. However, maintenance and monitoring for critical areas and buffers mitigation plans is a minimum period of five years.

**3. Why are financial guarantees necessary?**

- To guarantee that the work performed complies with all the provisions of the SMC, applicable laws, and ordinances;
- To ensure that the protective controls and/or required improvements are completed for the permit within the specified time limits;
- To ensure corrections are made to deficiencies affecting public health, safety, and welfare;
- To provide a means of recovery for the City in case the developer defaults;
- To guarantee that the design, materials, and workmanship of the facilities comply with applicable standards for a specific period of time; and
- To guarantee that a developer/contractor maintains plantings or improved facilities for a specific period of time. The SMC also states that the developer is responsible for ongoing maintenance of plantings.

**4. What are my options for posting guarantees?**

The City of Shoreline accepts the following forms of financial guarantees to satisfy performance and maintenance/defect/monitoring agreement requirements:

**Assignment of Funds:** An approved City of Shoreline form, signed and notarized by the principal of the project and banking institution ensuring that they are holding a specified amount of funds in a savings account, loan account or certificate of deposit. Those funds may not be released without written authorization from the City of Shoreline. If the applicant defaults, the bank pays the funds upon receipt of a notice of default from the Planning and Development Services Director or his/her designee.

**Cash:** Cash or Personal or cashiers checks or money orders that are converted into cash and held in trust by the City. If the applicant defaults, Planning and Development Services transfers the funds to the designated City account to pay for the necessary corrective work. Amounts in excess of that required to complete the work are returned to the applicant. The cash deposit will not be released without written authorization from the City.

**Surety Bond:** A third party guarantee that is issued by an organization chartered by the State of Washington (a licensed insurance company). The surety agrees to pay up to the bond amount, if the applicant defaults. In the event of a default claim, the surety has the option of paying the bond, or completing the work instead of paying the bond amount. Before making payment on a default claim, the surety investigates the validity of the claim. The bond will not be released without written authorization from the City.

**5. How do I set up a financial guarantee and where do I get the forms?**

How to: Assignment of funds may be obtained from a bank. Surety bonds may be obtained from an insurance agent, by looking under Bonds-Surety and Fidelity in the yellow pages of the phone book, or by contacting the Washington State Surety Association.

**Where to get the forms:** Planning and Development Services provides the specific financial guarantee forms and corresponding Performance Agreement or Maintenance/Defect/Monitoring Agreement forms. P&DS furnishes the forms tailored for each project to the bank or surety bonding agency upon request. Only those returned agreements and guarantees received on the City of Shoreline prepared forms with original, notarized signatures are accepted. It is important to remember that if you post the guarantee, it will be your responsibility to complete the work. If you sell the property and the purchaser does not replace your guarantee, then you are still responsible for completing the work.

**6. How does the City determine the valuations for the financial guarantee?**

The amount of the performance guarantee posted must be sufficient to cover the costs of project completion or corrective work, and also includes a contingency in an amount determined by the Director or his/her designee. The amount of the maintenance guarantee posted. The objective is to prevent the City from incurring financial liability for the project.

The City of Shoreline uses current RSMeans construction, landscaping and environmental cost data, adjusted for the Northwest Region, to determine the required amount for the financial guarantee. See the Bond Quantity Worksheet for guidance in determining the bond quantity due.

**7. When and how do I get my money back?**

Your money is returned when:

- the designated period of the guarantee has expired;
- permit and inspections fees have been paid to date;
- for performance guarantees, any applicable maintenance/defect/monitoring guarantees have been posted; and
- all activities have been inspected and successfully completed or the site is restored and stabilized.

Once the compliance is verified, a letter is sent to the institution for holding assignment of funds or a surety bond to request the release. Surety agencies usually send a close out form for sign-off. Staff prepares the paperwork for an internal cash release.

**8. Can someone replace my surety bonds, or can I replace them with a different type of guarantee?**

Yes, in both cases.

**9. Can the amount of a financial guarantee be reduced before release?**

With City approval, financial guarantees for site improvements may be reduced for some subdivision and commercial permits. The applicant must supply the project manager with a copy of the project's Bond Quantity Worksheet that indicates the percentage completed for each line item. The request for reduction shall be in writing, accompanied by a schedule for completion of remaining work. Surety bonds must be reissued in the approved amount for remaining work.

**10. What constitutes default and what notice would I receive?**

Default occurs when an inspection by the City of Shoreline reveals that some or all of the permit requirements have not been met and the applicant/principal has indicated (either in writing or by not complying) that he or she is unwilling or unable to accomplish the work in accordance with the conditions of the permit.

Both the applicant/principal and guarantor are notified in writing of the default. Default may include any of the following failure(s):

- Failure to comply with the permit/and/or financial guarantee conditions;
- Failure to complete, in the specified time, the required improvements in accordance with the City of Shoreline Municipal Code and the approved project plans and conditions;
- Failure to maintain/monitor, for the specified period of time, the required improvements in accordance with the City of Shoreline Municipal Code and with approved project plans and conditions; and/or
- Failure to pay current fee balances due.

The Director of Planning and Development Services or Director of Public Works will determine whether the permit or approval conditions have been satisfied in a timely manner, or whether the financial guarantee shall be collected to remedy the violation. The Director will notify the applicant of the default status, and if no satisfactory response is received to the default notification letters, the Director will demand payment of the financial guarantee.

**11. What if the applicant/principal chooses not to complete/correct the work and requests the City to use their financial guarantee to complete the work?**

In the event the applicant/principal chooses not to complete or correct the work, the City will use the financial guarantee for payment of all necessary costs and expenses incurred or expended by the City in causing the required work to be done. In the event the total costs associated with the required work exceed the guarantee amount, the applicant/principal shall be responsible for the payment of any remaining amount. The City may contract with a third party to complete the work required by the financial guarantee and associated agreement.

**12. Who may I call with general questions?**

The project manager assigned to a particular permit is the best contact. If your questions are not related to a specific project and are about the City's bonding process in general, call the Planning and Development Services Management Analyst at (206) 801-2532.